

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESSE LEE KNIFE,

Defendant.

CR-09-57-GF-BMM-01

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on June 18, 2015. (Doc. 55). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Knife admitted to having violated three conditions of his supervised release. (Doc. 55). Knife admitted to having violated: (1) the preamble to the standard conditions by committing another federal, state, or local crime; (2) special

condition 5 by consuming alcohol; and, (3) special condition 8 by operating a motor vehicle to travel to an unauthorized location. *Id.*

Judge Johnston found Knife's admissions sufficient to establish a supervised release violation. Judge Johnston recommends that this Court revoke Knife's supervised release and not impose a term of custody. *Id.* Judge Johnston recommends that the Court sentence Knife to thirty-six (36) months of supervised release. *Id.* Judge Johnston recommends that Knife sentenced to 180 days of home confinement with electronic monitoring. *Id.*

Knife's criminal history category is II, the current offense is a Grade C violation, and the underlying offenses are Class D felonies. The statutory range is a maximum of twenty-four (24) months in custody followed by a term of supervised release of up to thirty-six (36) months, less any custody time imposed. The applicable guideline range is four (4) to ten (10) months in custody followed by a term of supervised release of up to thirty-six (36) months, less any custody time imposed. The statutory and Guideline provisions apply to both of Knife's underlying offenses.

This Court finds no clear error in Judge Johnston's Findings and Recommendations and adopts them in full. Knife admitted that he violated multiple conditions of his supervised release. A term of custody, however, is not warranted given the fact that Knife is employed, he regularly attends treatment sessions, and

he consistently makes monthly restitution payments related to his underlying offenses. A sentence of 180 days of home confinement with electronic monitoring as a condition of Knife's thirty-six (36) months of supervised release is sufficient, but not greater than necessary.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 55) is ADOPTED IN FULL. Knife shall be sentenced to **thirty-six (36) months of supervised release**. Knife shall serve **180 days of home confinement with electronic monitoring** as a condition of his supervised release.

DATED this 6th day of July, 2015.



Brian Morris
United States District Court Judge